

Amendment No. 3 to SB1759

Briggs
Signature of Sponsor

AMEND Senate Bill No. 1759

House Bill No. 1716*

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Title 55, Chapter 8, Part 2, is amended by adding the following as a new section:

(a) It is an offense for the operator or a passenger of an enclosed motor vehicle to smoke cigarettes, pipes, or cigars in a motor vehicle when a child who is fourteen (14) years of age or less is also present in the vehicle, regardless of whether the windows of the motor vehicle are down.

(b)

(1) A violation of subsection (a) is punishable as follows:

(A) A first offense is punishable only by the issuance of a warning citation;

(B) A second offense is a Class C misdemeanor punishable only by a fine of twenty dollars (\$20.00) and court costs not to exceed ten dollars (\$10.00), including, but not limited to, any statutory fees of officers; and

(C) A third or subsequent offense is a Class C misdemeanor punishable only by a fine of fifty dollars (\$50.00) and court costs not to exceed ten dollars (\$10.00), including, but not limited to, any statutory fees of officers.

(2) No state or local litigation taxes shall be applicable to a case prosecuted under this section.

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(3) Notwithstanding subdivision (b)(1), a law enforcement officer may issue a verbal warning or issue a warning citation at any time for a violation of subsection (a).

(c)

(1) A violation of this section shall not be considered a primary offense, and a law enforcement officer shall not stop a motor vehicle solely because of a violation of this section.

(2) A violation of this section shall be based solely upon a law enforcement officer's clear and unobstructed view of a person smoking as prohibited by this section.

(3) A law enforcement officer shall not search or inspect a motor vehicle, its contents, the driver, or a passenger solely because of a violation of this section; except, that this subdivision (c)(3) does not prevent the application of the plain view doctrine.

(d) A traffic citation that is based solely upon a violation of this section shall be considered a nonmoving traffic violation, and no points shall be added to a driver record for the violation.

(e) The department of transportation is directed to utilize the department's permanent electronic overhead informational displays located throughout this state to provide periodic messages to the motoring public as to the provisions of this section.

(f) For purposes of this section:

(1) "Enclosed motor vehicle" means a motor vehicle equipped with a roof, doors, windows, and a windshield, and does not include a motor vehicle with a folding or detachable roof when the roof is folded or detached; and

(2) "Motor vehicle" has the same meaning as defined in § 55-8-101, except that "motor vehicle" does not include a recreational vehicle as defined in § 55-28-102.

SECTION 2. This act shall take effect July 1, 2018, the public welfare requiring it.